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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

2008 JUL 14 AM 10:50

UNITED STATES OF AMERICA,

) Magistrate Docket No
08 MJ 2134CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Plaintiff,

) COMPLAINT FOR VIOLATION OF:

v.

VN/H

DEPUTY

Asuncion LUEVANOS-Garcia,

) Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States

Defendant

The undersigned complainant, being duly sworn, states:

On or about **July 11, 2008** within the Southern District of California, defendant, **Asuncion LUEVANOS-Garcia**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



 SIGNATURE OF COMPLAINANT
 James Trombley
 Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 14th DAY OF JULY, 2008



 Cathy A. Bencivengo
 UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Asuncion LUEVANOS-Garcia

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On July 11, 2008, Border Patrol Agent M. Pena was patrolling an area known as the "Cuchama Truck Trail." This area is approximately one mile north and one mile west of the Tecate, California Port of Entry. This area is also commonly used by illegal immigrants to further their illegal entrance into the United States. At approximately 1:15 a.m., Agent Pena was alerted via service radio of a seismic activation device. Agent Pena responded to the area of the seismic sensor activation.

Upon arriving at the location, Agent Pena observed three individuals trying to conceal themselves in the surrounding brush. Agent Pena encountered the individuals and identified herself as a United States Border Patrol Agent in the English and Spanish languages. Each individual was interviewed and questioned concerning their immigration status. Each individual, including one later identified as the defendant **Asuncion LUEVANOS-Garcia**, admitted to being citizens and nationals of Mexico present in the United States without proper immigration documents that would allow them to enter or remain in the United States legally. At approximately 1:30 a.m., the defendant and the other individuals were arrested and transported to the United States Border Patrol Brown Field Station for further processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **May 30, 2008** through **San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was given his Miranda rights and he stated that he understood said rights and was willing to answer questions without the presence of his attorney. The defendant stated that he is a citizen and national of Mexico without proper immigration documentation to enter or remain in the United States.

Executed on July 12, 2008 at 10:00 a.m.

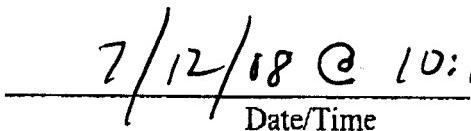


Carlos R. Chavez
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page, I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **July 11, 2008**, in violation of Title **8**, United States Code, Section **1326**.



Cathy A. Bencivengo
United States Magistrate Judge



7/12/08 @ 10:11 am
Date/Time